

IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE: CASE NO. 05-50097

TERRY D. SPIVEY CHAPTER 7
SHELLEY F. SPIVEY

JUDGE MARILYN SHEA-STONUM

DEBTORS

**TRUSTEE'S MOTION FOR
TURNOVER OF FUNDS**

Now comes the Trustee, Kathryn A. Belfance ("Trustee"), by and through counsel and pursuant to 11 U.S.C. §§ 541 and 542, respectfully moves the Court for an Order requiring the Debtors, Terry D. Spivey and Shelley F. Spivey ("Debtors"), to turnover to Trustee \$27,264.54. In support of this Motion, Trustee states the following:

1. On January 8, 2005 Debtors filed their bankruptcy petition under Chapter 7 of Title 11 of the United States Code. On motion of the Trustee, this Court reopened the estate on September 29, 2008.

2. Kathryn A. Belfance, is the duly appointed Chapter 7 Trustee of the within bankruptcy estate.

3. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the General Order No. 84 entered in this District on July 16, 1984. Venue is proper pursuant to 28 U.S.C. §§ 1408 and/or 1409. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

4. According to 11 U.S.C. § 541, property of the estate includes "...all legal or equitable interests of the debtor in property as of the commencement of the case..."¹

¹ 11 U.S.C. §541(a)(1).

5. Prior to the commencement of this bankruptcy proceeding Debtors became entitled to an inheritance from the estate of Elbert V. Bolyard. In this regard on July 24, 2008, Debtors received a cash sum of \$69,564.34.

6. As a result of the Trustee's Rule 2004 examination of Debtors on December 12, 2008, Debtors turned over the sum of \$42,300.27 to Trustee.

7. After Debtors' payment of \$42,300.27 there remains a balance of \$27,264.54 which should be immediately turned over to the bankruptcy estate.

WHEREFORE, Trustee prays the Court for an Order directing and requiring the Debtors, Terry D. Spivey and Shelley F. Spivey, to turnover the sum of \$27,264.54 to Trustee, and for such other and further relief that the Court deems proper.

Respectfully submitted,

/s/ KATHRYN A. BELFANCE
KATHRYN A. BELFANCE
Registration No. 0018035
Attorney for Trustee
One Cascade Plaza, Suite 1500
Akron, Ohio 44308
(330) 434-3000 (Phone)
(330) 434-9220 (Fax)
kb@rlbllp.com

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of August 2009, a copy of the foregoing Motion for Turnover was served as follows:

Served electronically:

Office of the U.S. Trustee
Warner Mendenhall, Debtors' Counsel
Kathryn A. Belfance, Attorney for the Trustee

Served via regular U.S. Mail:

Terry D. and Shelley F. Spivey, Debtors, 2273 7th St., SW, Akron, OH 44314

/s/ KATHRYN A. BELFANCE
KATHRYN A. BELFANCE
Registration No. 0018035